

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

OTIS MCDONALD, et al.,) DOCKET NO. 08 C 3645
) 08 C 3696
Plaintiffs,) 08 C 3697
)
vs.)
)
CITY OF CHICAGO, et al.,) Chicago, Illinois
) December 18, 2008
Defendants.) 9 o'clock a.m.
)

NATIONAL RIFLE ASSOCIATION OF AMERICA,)
Plaintiffs.)

VS.)
ROBERT ENGLER, et al.,)
Defendant.)

NATIONAL RIFLE ASSOCIATION OF AMERICA,)
Plaintiff.)
vs.)
DR. KATHRYN TYLER, et al.)
Defendants.)

TRANSCRIPT OF PROCEEDINGS BEFORE THE HONORABLE
MILTON I. SHADUR, Judge

APPEARANCES:

For the Plaintiffs:

MR. WILLIAM HOWARD,
MR. DAVID SIGALE and
MR. STEPHEN KOLODZIEJ

For the Defendants:

MR. ANDREW WORSECK,

1 *MS. REBECCA HERTZ and*
2 *MR. HANS GERMANN*

3 *JESSE ANDREWS*
4 *Official Court Reporter - U. S. District Court*
5 *219 S. Dearborn Street*
6 *Chicago, Illinois 60604*
7 *(312) 435-6899*

8 * * * * * *

1 THE CLERK: 08 C 3696, McDonald vs. City of Chicago.
2 08 C 3697, NRA vs. Village of Oak Park, and 08C 3697 NRA vs.
3 City of Chicago.

4 MR. SIGALE: Good morning, your honor. David
5 Sigale --

6 THE COURT: Wait a minute. Jesse prefers that you
7 identify yourself either from left to right or right to left.

8 MR. KOLODZIEJ: Steve Kolodziej for plaintiffs in
9 case umber 3697.

10 MR. HOWARD: Good morning, your Honor. Bill Howard
11 on behalf of the plaintiffs in the Oak Park Case.

12 MR. SIGALE: Good morning, your Honor. David
13 Sigale, S-i-g-a-l-e, on behalf of the McDonald plaintiffs.

14 MR. WORSECK: Good morning, your Honor. Andrew
15 Worseck on behalf of the City of Chicago in the two
16 case against it.

17 MS. HERTZ: Good morning, your Honor. Rebecca Hertz
18 on behalf of the City as well.

19 MR. GERMANN: Hans Germann on behalf of the Village
20 of Oak Park.

21 THE COURT: Good morning.

22 Now I have had handed to me some documents. First
23 of all, a stipulation in the National Rifle Association cases,
24 the one against the City of Chicago. 08 C 3697, the one
25 against Oak Park 08 C 3696, in which there is a voluntarily

1 dismissal of Count 3 in the respective Complaints. That
2 should probably be done first, just as a matter of the entry
3 by a minute order so that the remaining order that I am going
4 to be signing then becomes a final order in the case.
5 Although I am not sure that priority makes a lot of difference
6 in that sense, but that will be done first.

7 The second thing then in connection with those two
8 cases is that I have had handed up a proposed form of order
9 that reflects the grant of judgment on the pleadings on the
10 remaining two counts of the Complaint in the two cases based
11 upon my determination that's referred to there, that I am
12 bound by the Quillici case unless and until our Court of
13 Appeals does otherwise. So I have signed that order in each
14 of the two cases. That then represents basically a final
15 judgment in the two cases. That avoids any need to refer to a
16 Rule 54(b) determination.

17 MR. WORSECK: Judge --

18 THE COURT: Here, Sandy. I have signed those.
19 And counsel have given me I think also -- wait just a minute.

20 MR. WORSECK: Your Honor, if I can just interrupt
21 momentarily.

22 THE COURT: Wait just a minute. Yes.

23 MR. WORSECK: With respect to this order in the NRA
24 case against the City of Chicago, we would ask that the record
25 reflect that when we were last before you our motion for

1 judgment on the pleadings with respect to all three counts,
2 because Count 3 is still part of the case at that point in
3 time. Now Count 3 having been dismissed via a stipulation, I
4 suppose perhaps we should simply amend our motion that we made
5 last week to reflect that it's being made only with respect to
6 Counts 1 and 2.

7 THE COURT: I don't think that's necessary. I think
8 the stipulation simply repeats it for that part of your
9 motion. And so that particular motion really becomes moot.

10 MR. WORSECK: That's fine, your Honor.

11 THE COURT: Now with respect to the McDonald's case
12 what has been tendered is very similar, except that it relates
13 to all five counts of the Complaint. Now I haven't frankly
14 gone back to take a look at them. But at least my
15 understanding had been that with the engine having been
16 eliminated by my need to comply with the trilogy that all of
17 the cars that follow it also comes to a halt. So I find no
18 problem with either of them, and I have signed that as well.

19 Now I guess only one question for everybody, and
20 that has to do with something that's a pure matter of
21 mechanics. I basically do not conserve my space in my
22 chambers' file by disposing of papers in connection
23 with closed cases until I am sure that there is no longer any
24 need for any of those. To my knowledge I don't have the
25 originals of any document that might be needed in order

1 to complete the anticipated records on appeal. Although again
2 I haven't looked at the file to check that, that has become
3 less of a problem, as you might imagine, since we went to
4 electronic filing, because I no longer have to dredge up as I
5 occasionally did originals from the court file. Does anybody
6 have any sense that I can do anything other than pitch the
7 papers until the Court of Appeals tells otherwise? Anybody?

8 MR. HOWARD: Your Honor, with respect to the Oak
9 Park case we can't think of any originals that you need to
10 retain.

11 MR. WORSECK: None with respect to the City of
12 Chicago, your Honor.

13 THE COURT: Well, it's been nice knowing all of
14 you.

15 MR. HOWARD: Thank you for all of your time.

16 MR. KOLODZIEJ: Judge, there was one other matter.
17 I had filed in the City of Chicago case a motion be plaintiff
18 Burton to be dropped as a party.

19 THE COURT: Yes. I am glad that you mentioned that.
20 Because it seemed to me that granting that probably ought to
21 be reflected first.

22 MR. KOLODZIEJ: Yes.

23 THE COURT: So Sandy, that's one that I had marked
24 on the side. You will take care of covering that in the
25 minute order as well. Okay?

1 Thank you all. Anything else?

2 MR. HOWARD: Judge, I am sorry. Just one detail
3 point with respect to the Count 3 dismissal.

4 THE COURT: Yes .

5 MR. HOWARD: We did put in the stipulation that it
6 was with prejudice for purposes of our discussions last time.
7 So I just want to make sure that it was reflected in the
8 minute as with prejudice.

9 THE COURT: Yes. Here, Sandy.

10 MR. KOLODZIEJ: Thank you, Judge.

11 THE COURT: Thank you all.

12 (WHICH WERE ALL OF THE PROCEEDINGS HAD AT THE HEARING OF
13 THE ABOVE-ENTITLED CAUSE ON THE DAY AND DATE AFORESAID.)

14 C E R T I F I C A T E

15 I HEREBY CERTIFY that the foregoing is a true and correct
16 transcript from the report of proceedings in the
above-entitled cause.

17 /S/JESSE ANDREWS_
18 JESSE ANDREWS, CSR
OFFICIAL COURT REPORTER
19 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
20 DATED: January 26, 2009
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